



Applic. No.: 10/088,061

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/088,061 Confirmation No.: 8518

Applicant(s): Casais

Filed: 08/12/2002

Art Unit: 2617

Examiner: Karikari, Kwasi

Title: Supply of Electronic Data

Attorney Docket No.: 878.0003.U1 (US)

Customer No.: 29,683

Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Appeal Brief

Sir:

This is an appeal brief in regard to the final rejection of claims in the above-identified patent application. A Notice of Appeal was mailed to the USPTO on 12/11/2007 with a Pre-Appeal Brief Request For Review. In a Notice of Panel Decision from Pre-Appeal Brief Review, the Panel determined that the appeal should proceed to the Board of Patent Appeals and Interferences. The fee under 37 C.F.R. §41.20(b)(2) is enclosed. Please charge deposit account 50-1924 for any fee deficiency.

I. Real Party In Interest

The real party in interest is Nokia Corporation.

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II. Related Appeals and Interferences

There are no directly related appeals or interferences regarding this application.

III. Status Of Claims

Claims 1, 2, 6-8, 11, 12, 14-16, 20-23 and 25-45 are pending in this application. Claims 3-5, 9-10, 13, 17-19 and 24 have been cancelled. Claims 1, 2, 6-8, 11, 12, 14-16, 20-23 and 25-45 have been rejected by the Examiner. The rejection of Claims 1, 2, 6-8, 11, 12, 14-16, 20-23 and 25-45 is appealed.

IV. Status Of Amendments

Since the final rejection of 8/23/2007 no amendments have been filed.

V. Summary of Claimed Subject Matter

Independent claim 1 claims a system for supplying data in electronic form comprising a mobile terminal (14) and a supplying terminal (12) (see Fig. 1, page 5, line 31 - page 6, line 1). The supplying terminal (12) comprises a first communication transceiver (32) configured to receive data from at least one data server (18, 20) and a second communications transceiver (34) configured to send at least part of the data to the mobile terminal (14) over a wireless connection (see Wireless Application Protocol (WAP) on left side of Fig. 1 in network 22) (see Fig. 2, page 7, lines 28-30 and page 6, lines

2-31). The first communication receiver (32) is configured to obtain electronic data from the at least one data server (18, 20) by communication over a wireless network (see WAP on Right side of Fig. 1 in network 24). The wireless connection (WAP on Left side of Fig. 1 in network 22) is a Low Power Radio Frequency (LPRF) connection (page 6, lines 2-12; page 4, lines 1-2).

Independent claim 25 claims a supplying terminal (12) for supplying data in electronic form comprising first communication means (32) for receiving data from at least one data server (18, 20) over a wireless network and second communications means (34) for sending at least part of the data to a mobile terminal (14) over a wireless connection (see Fig. 1, page 5, line 31 - page 6, line 1) (see Wireless Application Protocol (WAP) on left side of Fig. 1 in network 22) (see Fig. 2, page 7, lines 28-30 and page 6, lines 2-31). The first communication means is wireless communications means for receiving data from at least one data server (18, 20) over a wireless network (see WAP on Right side of Fig. 1 in network 24). The wireless connection is a Low Power Radio Frequency (LPRF) connection (page 6, lines 2-12, page 4, lines 1-2).

Claim 25 contains means plus function language. Claim 25 claims "first communication means for receiving data from at least one data server over a wireless network". This corresponds to the transceiver 32 shown in Fig. 2 and described at page 7, lines 28-30 and page 6, lines 2-17. Claim 25 also claims "second communications means for sending at least part of the data to a mobile terminal over a wireless connection". This corresponds to the transceiver 34 shown in

Fig. 2 and described at page 7, line 30 and page 6, lines 19-31.

Independent claim 26 claims a supplying terminal (12) for supplying data in electronic form comprising a first communication transceiver (32) configured to receive data from at least one data server (18, 20) over a wireless network and second communications transceiver (34) configured to send at least part of the data to a mobile terminal over a wireless connection. (see Fig. 1, page 5, line 31 - page 6, line 1) (see Wireless Application Protocol (WAP) on left side of Fig. 1 in network 22) (see Fig. 2, page 7, lines 28-30 and page 6, lines 2-31) (see WAP on Right side of Fig. 1 in network 24) The wireless connection is a Low Power Radio Frequency (LPRF) connection (page 6, lines 2-12, page 4, lines 1-2).

Independent claim 42 claims a method for supplying data in electronic form comprising receiving over a wireless network data from at least one data server (page 6, lines 19-31, page 8, line 25); and in response to a request from the mobile terminal for at least a part of the data, sending using a wireless connection the at least a part of the data to the mobile terminal (page 15, line 16 - page 16, line 12). The wireless connection is a Low Power Radio Frequency (LPRF) connection. (page 6, lines 2-12, page 4, lines 1-2)

VI. Grounds of Rejection to be Reviewed on Appeal

Are Claims 1, 2, 6-8, 11-12, 14-16, 20-23 and 25-45 properly rejected under 35 U.S.C. §103(a) as being unpatentable over

Birgerson (US 6,138,009) in view of Levy et al. (US 6,505,160 B1)?

VII. Argument

For All Claims

The present application has priority back to September 16, 1999. The examiner has indicated that the USPTO has received the certified copy of the priority document. The priority application was in English.

Levy et al. was filed on May 2, 2000. Thus, Levy et al. was filed **after** the priority date of the present application. Levy et al. claims priority on U.S. provisional application No. 60/134,782 (hereinafter "the provisional patent application").

As stated in MPEP 2136.02 (II):

"When a U.S. patent, a U.S. patent application publication, or an international application publication is used to reject claims under 35 U.S.C. 102(e), the disclosure relied on in the rejection must be present in the issued patent or application publication. It is the earliest effective U.S. filing date (which will include certain international filing dates) of the U.S. patent or application publication being relied on as the critical reference date and subject matter not included in the patent or application publication itself can only be used when that subject matter becomes public. Portions of the patent application which were canceled are not part of

the patent or application publication and thus cannot be relied on in a 35 U.S.C. 102(e) rejection over the issued patent or application publication. *Ex parte Stalego*, 154 USPQ 52 (Bd. App. 1966). Likewise, subject matter which is disclosed in a parent application, but not included in the child continuation-in-part (CIP) cannot be relied on in a 35 U.S.C. 102(e) rejection over the issued or published CIP. *In re Lund*, 376 F.2d 982, 153 USPQ 625 (CCPA 1967) (The examiner made a 35 U.S.C. 102(e) rejection over an issued U.S. patent which was a continuation-in-part (CIP). The parent application of the U.S. patent reference contained an example II which was not carried over to the CIP. The court held that the subject matter embodied in the canceled example II could not be relied on as of either parent or child filing date. Thus, the use of example II subject matter to reject the claims under 35 U.S.C. 102(e) was improper.)".

As stated in MPEP 2136.03(III):

"The 35 U.S.C. 102(e) critical reference date of a U.S. patent or U.S. application publications and certain international application publications entitled to the benefit of the filing date of a provisional application under 35 U.S.C. 119(e) is the filing date of the provisional application with certain exceptions if the provisional application(s) properly supports the subject matter relied upon to make the rejection in compliance with 35 U.S.C. 112, first paragraph. See MPEP § 706.02(f)(1), examples 5 to 9."

In this case, the provisional patent application does not properly support the subject matter relied upon to make the rejection in compliance with 35 U.S.C. 112, first paragraph. This is discussed in detail for the individual claims below.

In the advisory action mailed 11/19/2007, the examiner mentions "well known in the art" for the first time. The examiner has not officially based his rejection upon "well known in the art" or "official notice" grounds. The official rejection is merely under 35 U.S.C. §103(a) as being unpatentable over Birgerson (US 6,138,009) in view of Levy et al. (US 6,505,160 B1). Applicant's attorney has challenged the examiner's "Official Notice", and in accordance with MPEP §2144.03 requested the examiner to cite a reference in support of this "well known in the art" position. The examiner has not done this.

Claim 1

The examiner (as indicated in the Advisory action mailed 11/19/2007) bases his rejection upon the disclosure in Levy et al. (US 6,505,160 B1) that "The path of the identifier from the decoding process, and the return path from a server to the communication application may include one or more hops through a wire or wireless connection using standard wire and wireless communication protocols like TCP/IP, HTTP, XML, WAP, **Bluetooth**, etc." (Column 5, lines 61-66). However, the provisional patent application has no such disclosure. This disclosure only first appears in the utility application filed on May 2, 2000. This was **after** applicant's priority date of September 16, 1999. Thus, this disclosure in Levy et al. (US

6,505,160 B1) is not prior art. (See MPEP 2136.02(II) and MPEP 2136.03(III) and MPEP 706.02(f)(1)(I).

The provisional patent application does mention a "short-range wireless broadcast" (see page 10, lines 5-8). However, Levy et al. (US 6,505,160 B1) does not have this disclosure (and does not incorporate the provisional patent application by reference). Thus, this disclosure of a "short-range wireless broadcast" in the provision patent application is not part of the disclosure of Levy et al. (US 6,505,160 B1). As noted in MPEP 2136.02(II), portions of a patent application which were canceled are not part of the patent or application publication and thus cannot be relied on in a ...[prior art] rejection. In this case, subject matter in the provisional patent application 60/134,782 was canceled and not contained in Levy et al. (US 6,505,160 B1). Thus, that canceled (non-included) subject matter is not part of Levy et al. (US 6,505,160 B1) and cannot be used by the examiner in rejecting applicant's claims.

Furthermore, the disclosure of a "short-range wireless broadcast" (see page 10, lines 5-8) in the provisional patent application (60/134,782) is totally unrelated to the disclosure relating to Bluetooth in column 13 of Levy et al. (US 6,505,160 B1). The "short-range wireless broadcast" (see page 10, lines 5-8) mentioned in the provisional patent application relates to a personal music library providing music to a user's playback device by a short-range wireless broadcast. The reference to "Bluetooth" in Levy et al. (US 6,505,160 B1), on the other hand, is in regard to a path of an identifier from a decoding device to a server or from a server

to a communication application. This is a path **reverse** to a path described at page 10, lines 5-8 of the provisional patent application from a personal music library providing music to a user's playback device. Levy et al. (US 6,505,160 B1) does not properly support the subject matter disclosed in see page 10, lines 5-8 of the provisional patent application to fulfill 35 U.S.C. 112, first paragraph. More importantly, in this case the provisional patent application does not support the subject matter relied upon to make the rejection in compliance with 35 U.S.C. 112, first paragraph. The provisional patent application does not support the disclosure "The path of the identifier from the decoding process, and the return path from a server to the communication application may include one or more hops through a wire or wireless connection using standard wire and wireless communication protocols like TCP/IP, HTTP, XML, WAP, **Bluetooth**, etc." (Column 5, lines 61-66 in Levy et al. (US 6,505,160 B1)). Thus, because the provisional patent application (60/134,782) does not properly support the subject matter relied upon to make the rejection (in compliance with 35 U.S.C. 112, first paragraph), Levy et al. (US 6,505,160 B1) is not entitled to the benefit of the filing date of the provisional patent application in regard to that disclosure. (See MPEP 2136.03(III)). The examiner's rational for the rejection is flawed and should be reversed.

Considering that Column 5, lines 61-66 of Levy et al. (US 6,505,160 B1) is not entitled to the filing date of the provisional patent application and, therefore, is not prior art, nowhere in the cited art (disclosure in Levy et al. (US 6,505,160 B1) which was also in the provisional patent

application) is there a disclosure or suggestion of the features recited in the claims. For example, claim 1 claims:

A system for supplying data in electronic form comprising a mobile terminal and a supplying terminal, the supplying terminal comprising a first communication transceiver configured to receive data from at least one data server and second communications transceiver configured to send at least part of the data to the mobile terminal over a wireless connection, wherein the first communication receiver is configured to obtain electronic data from the at least one data server by communication over a wireless network, and wherein the wireless connection is a Low Power Radio Frequency (LPRF) connection.

This unique type of system is not disclosed or suggested in the references which are prior art (**before September 16, 1999**). The examiner has not established a prima facie case of obviousness.

In the "final" office action mailed 08/23/2007, the examiner stated that Birgerson discloses a first communication receiver configured to obtain electronic data from at least one server by communication over a wireless network. This is incorrect. Birgerson does not disclose that the base station 20 has a transceiver for obtaining data from database 5 over a wireless network. Column 7 of Birgerson merely discloses connection of base station 20 to Internet 30 or an intranet, but there is no disclosure or suggestion of such connection being with a transceiver and over a **wireless** network.

In the "final" office action mailed 08/23/2007, the examiner has admitted that Birgerson fails to disclose a wireless connection which is a Low Power Radio Frequency (LPRF) connection. The examiner then goes on to state that Levy suggests making a connection of Birgerson a wireless communication protocol such as Bluetooth whereby the Bluetooth path is being associated with the "Low Power Radio Frequency (LPRF) connection). The examiner specifically points to column 5, lines 37-66 of Levy et al. which states:

"The system depicted in FIG. 1 allows several different interested parties to establish services linked via the identifier. For example, server 1 can be configured to provide generic promotional and/or licensing information associated with an identifier. If the content owner, distributor, retailer, artist or other related party wishes to provide information or services for a connected object, then server 1 may also route the identifier for that object, and possibly context information, the address of the communication application, and instructions, to servers maintained by these entities. These servers, in turn, provide promotional, sales, or licensing information, and electronic buying or licensing opportunities specific to that entity back to the consumer over the network via the communication application.

In the context of a network configuration, Internet protocols may be used to return data to the communication application or to the device or system in which it operates. The communication application may be

implemented in a web browser, such as Internet Explorer or Netscape Navigator. Examples of ways of exchanging information between a client player and a server include returning a web page with metadata and program scripts designed to run on the end user's system. The metadata itself may include active links, such as URLs to other network resources, such as a web site or some other network service. The path of the identifier from the decoding process, and the return path from a server to the communication application may include one or more hops through a wire or wireless connection using standard wire and wireless communication protocols like TCP/IP, HTTP, XML, WAP, Bluetooth, etc. In addition, data returned to the user may be routed through one or more servers that may forward the data, and in some cases, augment the data or modify it in some fashion."

However, as noted above, column 5, lines 37-66 of Levy is not disclosed in the prior provisional patent application. In addition, Levy et al. does not incorporate by reference the provisional patent application. Nor does this subject matter appear to be disclosed in the other parent patent applications (which were not incorporated by reference). The other "related" patents/applications (which were incorporated by reference), also do not appear to have this disclosure.

In this case, the provisional patent application does not properly support the subject matter relied upon to make the rejection in compliance with 35 U.S.C. 112, first paragraph.

The examiner's rational for the rejection is flawed and should be reversed. The examiner has not established a prima facie

case of obviousness. Therefore, claim 1 is patentable and should be allowed.

Claims 2, 8, 14, 15, 21 and 22 stand or fall with claim 1.

Claim 6

Claim 6 claims that the supplying terminal is a vending machine which supplies electronic data in exchange for a monetary payment. The examiner points to column 13 of Levy et al. for a disclosure of a vending machine. However, column 13 of Levy et al. does not have a disclosure of a vending machine or monetary payment. Thus, there is no suggestion to make base station 20 of Birgerson a vending machine. In addition, this disclosure in column 13 of Levy et al. does not appear to be disclosed in the provisional patent application. Thus, the disclosure in column 13 of Levy et al. does not appear to be entitled to the filing date of the provisional patent application. The examiner has not established a *prima facie* case of obviousness.

Levy et al. describes buying links (such as at column 6, lines 43-67; column 7, lines 24-34; and column 12, line 26). However, there is no similar disclosure in the provisional patent application. Thus, this disclosure in Levy et al. is not entitled to the filing date of the provisional patent application as a reference date.

Claim 6 is patentable and should be allowed.

Claim 7

Claim 7 is dependent upon claim 6 and adds that the supplying terminal and the mobile terminal exchange information necessary to enable payment to be made for the electronic data supplied to the mobile terminal. The examiner points to column 6, lines 29-59 and column 13 of Levy et al. for a disclosure of the supplying terminal and the mobile terminal exchange information necessary to enable payment to be made for the electronic data supplied to the mobile terminal. However, this is incorrect. There is no disclosure or suggestion of this feature in column 6, lines 29-59 and column 13 of Levy et al. Column 6, lines 56-59 mention links in a MP3 file to enable a content owner to market music and products that promote the sale of audio objects in other formats. However, a link in a MP3 file for marketing another product is not a disclosure or suggestion of a vending machine with the supplying terminal and the mobile terminal exchanging information necessary to enable payment to be made for the electronic data supplied to the mobile terminal. In addition, this disclosure in Levy et al. does not appear to be disclosed in the provisional patent application. Thus, the disclosure in column 6, lines 29-59 and column 13 of Levy et al. does not appear to be entitled to the filing date of the provisional patent application.

Levy et al. describes buying links (such as at column 6, lines 43-67; column 7, lines 24-34; and column 12, line 26). However, there is no similar disclosure in the provisional patent application. Thus, this disclosure in Levy et al. is

not entitled to the filing date of the provisional patent application as a reference date.

The examiner has not established a prima facie case of obviousness. Therefore, claim 7 is patentable and should be allowed.

Claim 11

Claim 11 claims that the wireless network (between the supplying terminal and the data server) is provided by a cellular network. The cited art does not disclose or suggest this. The examiner cited column 11, lines 53-65 of Birgerson. However, this portion of Birgerson merely relates to the connection between the mobile station (MS) and the base station; not between the base station and the database (DB). Claim 11, on the other hand, claims that the wireless network (between the supplying terminal and the data server) is provided by a cellular network. There is no disclosure or suggestion of this in the cited art. Therefore, the examiner has not established a prima facie case of obviousness.

Claim 12

Claim 12 claims that the wireless connection is a connection between the mobile station and the supplying terminal in a pico-cell. The examiner points to column 5, lines 37-66 of Levy et al. for a disclosure of a wireless connection which is a connection between the mobile station and the supplying terminal in a pico-cell. However, this is incorrect. There is no disclosure or suggestion of a pico-cell at column 5, lines 37-66 of Levy et al. Thus, even if it was obvious to combine Levy et al. with Birgerson, this still would not

disclosure or suggest applicant's invention as claimed in claim 12. The provisional patent application also does not appear to support the disclosure sufficient for Levy et al. to be entitled to a subject matter filing date earlier than May 2, 2000; which is after the priority date of the present application. Claim 12 is patentable and should be allowed.

Claim 16

Claim 16 claims that the data transmitted to the mobile terminal from the supplying terminal is only part of the data transmitted to the supplying terminal by the or each data server. The examiner points to column 14, lines 43-58 of Levy et al. for a disclosure of data transmitted to the mobile terminal from the supplying terminal is only part of the data transmitted to the supplying terminal by the or each data server. However, this is incorrect. Column 14, lines 43-58 of Levy et al. does not disclose a system in which data transmitted to the mobile terminal from the supplying terminal is only part of the data transmitted to the supplying terminal by the or each data server. This portion of Levy et al. merely discloses partial recording by a radio receiver or telephone handset; not a system in which data transmitted to the mobile terminal from the supplying terminal is only part of the data transmitted to the supplying terminal by the or each data server.

Furthermore, the provisional patent application does not appear to support the disclosure at column 14, lines 43-58 of Levy et al. Thus, Levy et al. does not appear to be entitled to the earlier priority date of the provisional patent application for this disclosure. Even if it did, there

appears to be no disclosure or suggestion to combine the references to result in the features of claim 16 being considered obvious. Why would it be obvious to combine Levy et al. with Birgerson for the benefit of achieving a commercial system that includes music downloading as the examiner has stated? Column 6, lines 29-59 and column 13, lines 49-59 of Levy et al. certainly do not suggest such a benefit. The examiner has failed to establish a *prima facie* case of obviousness regarding claim 16. Claim 16 is patentable and should be allowed.

Claim 20

Claim 20 is dependent upon claim 6 and adds that the price at which the electronic data is sold is determined by a person controlling supply of that electronic data to mobile terminals. The examiner has stated that column 6, lines 43-67 of Levy et al. discloses a system in which the price at which the electronic data is sold is determined by a person controlling supply of that electronic data to mobile terminals. This is incorrect. This portion of Levy et al. merely discloses links, such as a link to a licensing server or a link to a server for buying and downloading music. This is not a disclosure of a system in which the price at which the electronic data is sold is determined by a person controlling supply of that electronic data to mobile terminals; such as the person controlling supply of the electronic data from the vending machine to the mobile terminal. Furthermore, the provisional patent application does not appear to support the disclosure at column 6, lines 43-67 of Levy et al. Hence, this subject matter is not

entitled to the filing date of the provisional patent application as a reference date. Even if, for the sake of argument, Levy et al. was entitled to the filing date of the provisional patent application as a reference date, there still is no suggestion to combine Levy et al. with Birgerson to render claim 20 obvious. Claim 20 is patentable and should be allowed.

Claim 23

Claim 23 claims that the data in electronic form is uploaded to the supplying terminal in an operation that is independent from a request being made for the data in electronic form by the mobile terminal. The examiner points to column 14, lines 35-58 of Levy et al. as a disclosure of a system in which data in electronic form is uploaded to the supplying terminal in an operation that is independent from a request being made for the data in electronic form by the mobile terminal. However, this is incorrect. Column 14, lines 35-58 of Levy et al. merely discloses a recording feature. There is no disclosure or suggestion of a system where data is uploaded to the supplying terminal in an operation that is independent from a request being made for the data in electronic form by the mobile terminal. Thus, even if it was obvious to combine the teachings of Levy et al. with Birgerson, there still would be no suggestion of the invention as claimed in claim 23. Furthermore, the provisional patent application does not appear to support the disclosure at Column 14, lines 35-58 of Levy et al. Hence, this subject matter is not entitled to the filing date of the provisional patent application as a reference date.

Claim 25

Independent claim 25 claims a supplying terminal for supplying data in electronic form comprising:

- first communication means for receiving data from at least one data server over a wireless network and
- second communications means for sending at least part of the data to a mobile terminal over a wireless connection,
- the first communication means is a wireless communications means for receiving data from at least one data server over a wireless network, and
- the wireless connection is a Low Power Radio Frequency (LPRF) connection.

As noted above with respect to claim 1, the examiner has stated that Birgerson discloses a first communication receiver configured to obtain electronic data from at least one server by communication over a wireless network. This is incorrect. Birgerson does not disclose that the base station 20 has a transceiver for obtaining data from database 5 over a wireless network. Column 7 of Birgerson merely discloses connection of base station 20 to Internet 30 or an intranet, but there is no disclosure or suggestion of such connection being with a transceiver and over a wireless network.

The examiner has admitted that Birgerson fails to disclose a wireless connection which is a Low Power Radio Frequency (LPRF) connection. The examiner then goes on to state that Levy et al. suggests making a connection of Birgerson a

wireless communication protocol such as Bluetooth whereby the Bluetooth path is being associated with the "Low Power Radio Frequency (LPRF) connection). The examiner specifically points to column 5, lines 37-66 of Levy et al.

However, column 5, lines 37-66 of Levy et al. is not disclosed in the prior provisional patent application. Nor does this subject matter appear to be disclosed in the other parent patent applications (which were not incorporated by reference). The other "related" patents/applications (which were incorporated by reference), also do not appear to have this disclosure.

In this case, the provisional patent application does not properly support the subject matter relied upon to make the rejection in compliance with 35 U.S.C. 112, first paragraph.

The provisional patent application does mention a "short-range wireless broadcast" (see page 10, lines 5-8). However, Levy et al. (US 6,505,160 B1) does not have this disclosure (and does not incorporate the provisional patent application by reference). Thus, this disclosure of a "short-range wireless broadcast" in the provision patent application is not part of the disclosure of Levy et al. (US 6,505,160 B1).

As noted in MPEP 2136.02(II), portions of a patent application which were canceled are not part of the patent or application publication and thus cannot be relied on in a ...[prior art] rejection. In this case, subject matter in the provisional patent application (60/134,782) was canceled and not contained in Levy et al. (US 6,505,160 B1). Thus, that canceled (non-included) subject matter is not part of Levy et al. (US

6,505,160 B1) and cannot be used by the examiner in rejecting applicant's claims.

The provisional patent application (60/134,782) mentioning of a "short-range wireless broadcast" (see page 10, lines 5-8) is totally unrelated to the disclosure relating to Bluetooth mentioned in column 5, lines 37-66 of Levy et al. The "short-range wireless broadcast" (see page 10, lines 5-8) mentioned in the provisional patent application relates to a personal music library providing music to a user's playback device by a short-range wireless broadcast. The reference to "Bluetooth" in Levy et al. (US 6,505,160 B1), on the other hand, is in regard to a path of an identifier from a decoding device to a server or from a server to a communication application. This is a path **reverse** to a path described at page 10, lines 5-8 of the provisional patent application from a personal music library providing music to a user's playback device. Levy et al. (US 6,505,160 B1) does not properly support the subject matter disclosed in see page 10, lines 5-8 of the provisional patent application to fulfill 35 U.S.C. 112, first paragraph. More importantly, in this case the provisional patent application does not support the subject matter relied upon to make the rejection in compliance with 35 U.S.C. 112, first paragraph. The provisional patent application does not support the disclosure "The path of the identifier from the decoding process, and the return path from a server to the communication application may include one or more hops through a wire or wireless connection using standard wire and wireless communication protocols like TCP/IP, HTTP, XML, WAP, **Bluetooth**, etc." (Column 5, lines 61-66 in Levy et al. (US

6,505,160 B1)). Page 10, lines 5-8 of the provisional patent application merely states:

"The personal music library can have its own internet connection. Or it can be equipped with wireless capabilities, permitting it to receive digital music from wireless broadcasts (e.g. for the clearinghouse). In either case, the library can provide music to the user's playback devices by short-range wireless broadcast.

This disclosure in the provisional patent application is not disclosed in Levy et al.

This disclosure in the provisional application does not support the disclosure in Levy et al. of "The path of the identifier from the decoding process, and the return path from a server to the communication application may include one or more hops through a wire or wireless connection using standard wire and wireless communication protocols like TCP/IP, HTTP, XML, WAP, **Bluetooth**, etc." (Column 5, lines 61-66 in Levy et al. (US 6,505,160 B1)).

Thus, because the provisional patent application (60/134,782) does not properly support the subject matter relied upon to make the rejection (in compliance with 35 U.S.C. 112, first paragraph), Levy et al. (US 6,505,160 B1) is not entitled to the benefit of the filing date of the provisional patent application in regard to that disclosure. (See MPEP 2136.03(III)). This disclosure in Levy et al. is only entitled to a reference date of May 2, 2000 (the filing date of Levy et al.). The present application, on the other hand, is entitled to the priority date of September 16, 1999. The

examiner's rational for the rejection is flawed and should be reversed. The examiner has not established a *prima facie* case of obviousness. Therefore, claim 25 is patentable and should be allowed.

Claim 26

Independent claim 26 claims a supplying terminal for supplying data in electronic form comprising

- a first communication transceiver configured to receive data from at least one data server over a wireless network and
- second communications transceiver configured to send at least part of the data to a mobile terminal over a wireless connection,
- wherein the wireless connection is a Low Power Radio Frequency (LPRF) connection.

As noted above with respect to claims 1 and 25, the examiner has stated that Birgerson discloses a first communication receiver configured to obtain electronic data from at least one server by communication over a wireless network. This is incorrect. Birgerson does not disclose that the base station 20 has a transceiver for obtaining data from database 5 over a wireless network. Column 7 of Birgerson merely discloses connection of base station 20 to Internet 30 or an intranet, but there is no disclosure or suggestion of such connection being with a transceiver and over a **wireless** network.

The examiner has admitted that Birgerson fails to disclose a wireless connection which is a Low Power Radio Frequency (LPRF) connection. The examiner then goes on to state that Levy et al. suggests making a connection of Birgerson a wireless communication protocol such as Bluetooth whereby the Bluetooth path is being associated with the "Low Power Radio Frequency (LPRF) connection). The examiner specifically points to column 5, lines 37-66 of Levy et al.

However, column 5, lines 37-66 of Levy et al. is not disclosed in the prior provisional patent application. Nor does this subject matter appear to be disclosed in the other parent patent applications (which were not incorporated by reference). The other "related" patents/applications (which were incorporated by reference), also do not appear to have this disclosure.

In this case, the provisional patent application does not properly support the subject matter relied upon to make the rejection in compliance with 35 U.S.C. 112, first paragraph.

The provisional patent application does mention a "short-range wireless broadcast" (see page 10, lines 5-8). However, Levy et al. (US 6,505,160 B1) does not have this disclosure (and does not incorporate the provisional patent application by reference). Thus, this disclosure of a "short-range wireless broadcast" in the provision patent application is not part of the disclosure of Levy et al. (US 6,505,160 B1).

As noted in MPEP 2136.02(II), portions of a patent application which were canceled are not part of the patent or application publication and thus cannot be relied on in a ...[prior art]

rejection. In this case, subject matter in the provisional patent application (60/134,782) was canceled and not contained in Levy et al. (US 6,505,160 B1). Thus, that canceled (non-included) subject matter is not part of Levy et al. (US 6,505,160 B1) and cannot be used by the examiner in rejecting applicant's claims.

The provisional patent application (60/134,782) mentioning of a "short-range wireless broadcast" (see page 10, lines 5-8) is totally unrelated to the disclosure relating to Bluetooth mentioned in column 5, lines 37-66 of Levy et al. The "short-range wireless broadcast" (see page 10, lines 5-8) mentioned in the provisional patent application relates to a personal music library providing music to a user's playback device by a short-range wireless broadcast. The reference to "Bluetooth" in Levy et al. (US 6,505,160 B1), on the other hand, is in regard to a path of an identifier from a decoding device to a server or from a server to a communication application. This is a path **reverse** to a path described at page 10, lines 5-8 of the provisional patent application from a personal music library providing music to a user's playback device. Levy et al. (US 6,505,160 B1) does not properly support the subject matter disclosed in see page 10, lines 5-8 of the provisional patent application to fulfill 35 U.S.C. 112, first paragraph. More importantly, in this case the provisional patent application does not support the subject matter relied upon to make the rejection in compliance with 35 U.S.C. 112, first paragraph. The provisional patent application does not support the disclosure "The path of the identifier from the decoding process, and the return path from a server to the communication application may include one or more hops through

a wire or wireless connection using standard wire and wireless communication protocols like TCP/IP, HTTP, XML, WAP, **Bluetooth**, etc." (Column 5, lines 61-66 in Levy et al. (US 6,505,160 B1)). Page 10, lines 5-8 of the provisional patent application merely states:

"The personal music library can have its own internet connection. Or it can be equipped with wireless capabilities, permitting it to receive digital music from wireless broadcasts (e.g. for the clearinghouse). In either case, the library can provide music to the user's playback devices by short-range wireless broadcast.

This disclosure in the provisional patent application is not disclosed in Levy et al.

This disclosure in the provisional application does not support the disclosure in Levy et al. of "The path of the identifier from the decoding process, and the return path from a server to the communication application may include one or more hops through a wire or wireless connection using standard , wire and wireless communication protocols like TCP/IP, HTTP, XML, WAP, **Bluetooth**, etc." (Column 5, lines 61-66 in Levy et al. (US 6,505,160 B1)).

Thus, because the provisional patent application (60/134,782) does not properly support the subject matter relied upon to make the rejection (in compliance with 35 U.S.C. 112, first paragraph), Levy et al. (US 6,505,160 B1) is not entitled to the benefit of the filing date of the provisional patent application in regard to that disclosure. (See MPEP 2136.03(III)). This disclosure in Levy et al. is only

entitled to a reference date of May 2, 2000 (the filing date of Levy et al.). Whereas, the present application is entitled to the priority date of September 16, 1999. The examiner's rational for the rejection is flawed and should be reversed. The examiner has not established a *prima facie* case of obviousness. Therefore, claim 26 is patentable and should be allowed.

Claims 39 and 41 stands or falls with claim 26.

Claim 27

Claim 27 claims that the supplying terminal further comprises at least one controller configured to cause the supplying terminal to act as a proxy between the mobile terminal and the at least one data server. The examiner (pointing to the base station 20 in Fig. 1) stated that Birgerson discloses a supplying terminal comprising at least one controller configured to cause the supplying terminal to act as a proxy between the mobile terminal and the at least one data server. There appears to be no disclosure in Birgerson that Base station 20 acts as a proxy between the mobile station 10 and the database 5. The examiner has failed to establish a *prima facie* case of obviousness. Claim 27 is patentable and should be allowed.

Claim 28

Claim 28 claims that the supplying terminal further comprises at least one controller configured to cause the transfer of data between the at least one data server and the supplying terminal to be carried out securely. The examiner (pointing to column 6, lines 43-59 of Levy et al.) stated that Levy et

al. discloses a supplying terminal comprising at least one controller configured to cause the transfer of data between the at least one data server and the supplying terminal to be carried out securely. However, column 6, lines 43-59 of Levy et al. merely relates to supplying a link. Thus, the examiner's characterization of Levy et al. is incorrect. Thus, even if the teachings of Levy et al. were combined with Birgerson, this still would not disclose or suggest applicant's claimed invention.

Furthermore, column 6, lines 43-59 of Levy et al. is not supported by the disclosure in the provisional patent application. Thus, even if column 6, lines 43-59 of Levy et al. was considered to disclose a supplying terminal comprising at least one controller configured to cause the transfer of data between the at least one data server and the supplying terminal to be carried out securely, it is not entitled to the earlier filing date of the provisional patent application and, therefore, is not prior art. The examiner has failed to establish a *prima facie* case of obviousness. Claim 28 is patentable and should be allowed.

Claim 29

Claim 29 claims that the supplying terminal further comprises at least one controller configured to cause the transfer of data between the supplying terminal and the mobile terminal to be carried out securely. The examiner (pointing to column 6, lines 43-59 of Levy et al.) stated that Levy et al. discloses a supplying terminal comprising at least one controller configured to cause the transfer of data between the supplying terminal and the mobile terminal to be carried out securely.

This is incorrect. Column 6, lines 43-59 of Levy et al. merely relates to supplying a link. Thus, even if the teachings of Levy et al. were combined with Birgerson, this still would not disclose or suggest applicant's claimed invention.

Furthermore, column 6, lines 43-59 of Levy et al. is not supported by the disclosure in the provisional patent application. Thus, even if column 6, lines 43-59 of Levy et al. was considered to disclose a supplying terminal comprising at least one controller configured to cause the transfer of data between the supplying terminal and the mobile terminal to be carried out securely, it is not entitled to the earlier filing date of the provisional patent application and, therefore, is not prior art. The examiner has failed to establish a prima facie case of obviousness. Claim 29 is patentable and should be allowed.

Claim 30

Claim 30 claims that the supplying terminal further comprises at least one controller configured to send the at least part of the data in response to confirmation of a monetary payment being made corresponding to the at least part of the data. The examiner (pointing to column 6, lines 29-59 and column 13 of Levy et al.) stated that Levy discloses a supplying terminal comprising at least one controller configured to send the at least part of the data in response to confirmation of a monetary payment being made corresponding to the at least part of the data. This is incorrect. Column 6, lines 29-59 and column 13 of Levy et al. does not have this disclosure. Thus, even if the teachings of Levy et al. were combined with

Birgerson, this still would not disclose or suggest applicant's claimed invention.

Furthermore, column 6, lines 29-59 and column 13 of Levy et al. is not supported by the disclosure in the provisional patent application. Thus, even if column 6, lines 29-59 and column 13 of Levy et al. was considered to disclose a supplying terminal comprising at least one controller configured to send the at least part of the data in response to confirmation of a monetary payment being made corresponding to the at least part of the data, it is not entitled to the earlier filing date of the provisional patent application and, therefore, is not prior art. The examiner has failed to establish a prima facie case of obviousness. Claim 30 is patentable and should be allowed.

Claim 31

Claim 31 is dependent upon claim 30 and claims that the controller in the supplying terminal is configured to exchange information with the mobile terminal necessary to enable the monetary payment to be made. The examiner (pointing to column 6, lines 29-59 and column 13 of Levy et al.) stated that Levy et al. discloses a controller in the supplying terminal is configured to exchange information with the mobile terminal necessary to enable the monetary payment to be made. This is incorrect. Column 6, lines 29-59 and column 13 of Levy et al. does not have this disclosure. Thus, even if the teachings of Levy et al. were combined with Birgerson, this still would not disclose or suggest applicant's claimed invention.

Furthermore, column 6, lines 29-59 and column 13 of Levy et al. is not supported by the disclosure in the provisional patent application. Thus, even if column 6, lines 29-59 and column 13 of Levy et al. was considered to disclose a controller in the supplying terminal is configured to exchange information with the mobile terminal necessary to enable the monetary payment to be made, it is not entitled to the earlier filing date of the provisional patent application and, therefore, is not prior art.

Levy et al. describes buying links (such as at column 6, lines 43-67; column 7, lines 24-34; and column 12, line 26). However, there is no similar disclosure in the provisional patent application. Thus, this disclosure in Levy et al. is not entitled to the filing date of the provisional patent application as a reference date.

The examiner has failed to establish a prima facie case of obviousness. Claim 30 is patentable and should be allowed.

Claim 32

Claim 32 claims that the supplying terminal comprises at least one controller configured to cause the mobile terminal and the supplying terminal to communicate using the Wireless Application Protocol (WAP). The examiner (pointing to column 6, lines 43-59 of Levy et al.) stated that Levy et al. discloses a supplying terminal comprises at least one controller configured to cause the mobile terminal and the supplying terminal to communicate using the Wireless Application Protocol (WAP). However, this is incorrect. Levy et al. does not disclose a supplying terminal comprises at

least one controller configured to cause the mobile terminal and the supplying terminal to communicate using the Wireless Application Protocol (WAP). Thus, even if the teachings of Levy et al. were combined with Birgerson, this still would not disclose or suggest applicant's claimed invention.

Furthermore, column 6, lines 43-59 of Levy et al. is not supported by the disclosure in the provisional patent application. Thus, even if column 6, lines 43-59 of Levy et al. was considered to disclose a supplying terminal comprises at least one controller configured to cause the mobile terminal and the supplying terminal to communicate using the Wireless Application Protocol (WAP), it is not entitled to the earlier filing date of the provisional patent application and, therefore, is not prior art. The examiner has failed to establish a prima facie case of obviousness. Claim 32 is patentable and should be allowed.

Claim 33

Claim 33 claims that the first communications transceiver of the supplying terminal (which is configured to receive data from at least one data server over a wireless network) is configured to receive the data over a cellular wireless network. The examiner (pointing to column 11, lines 53-65 of Birgerson) stated that Birgerson discloses a supplying terminal (base station 20) which has the first communication transceiver (for communication with database 5) which is configured to receive the data (from the database 5) over a cellular wireless network. However, the cellular communication systems mentioned in column 11, lines 53-65 of Birgerson are for the wireless network from the base station

20 to the mobile station MS; not between the base station 20 and the database DB. The examiner has failed to establish a *prima facie* case of obviousness. Claim 33 is patentable and should be allowed.

Claim 34

Claim 34 claims that the supplying terminal comprises at least one controller which is configured to send a portion of the received data to the mobile terminal, and wherein the portion of the received data is only part of the data received from the at least one data server. The examiner (pointing to column 14, lines 43-58 of Levy et al.) stated that Levy et al. discloses a supplying terminal comprising at least one controller which is configured to send a portion of the received data to the mobile terminal, and wherein the portion of the received data is only part of the data received from the at least one data server. This is incorrect. Column 14, lines 43-58 of Levy et al. merely relates to partial recording. There is no disclosure or suggestion of a supplying terminal comprising at least one controller which is configured to send a portion of the received data to the mobile terminal, and wherein the portion of the received data is only part of the data received from the at least one data server. Thus, even if the teachings of Levy et al. were combined with Birgerson, this still would not disclose or suggest applicant's claimed invention.

Furthermore, column 14, lines 43-58 of Levy et al. is not supported by the disclosure in the provisional patent application. Thus, even if column 14, lines 43-58 of Levy et al. was considered to disclose a supplying terminal comprising

at least one controller which is configured to send a portion of the received data to the mobile terminal, it is not entitled to the earlier filing date of the provisional patent application and, therefore, is not prior art. The examiner has failed to establish a *prima facie* case of obviousness. Claim 33 is patentable and should be allowed.

Claim 34

Claim 34 claims that the controller of the supplying terminal is configured to send a portion of the received data to the mobile terminal, and that the portion of the received data is only part of the data received from the at least one data server. The examiner (pointing to column 14, lines 43-58 of Levy et al.) stated that Levy et al. discloses a controller of a supplying terminal configured to send a portion of the received data to the mobile terminal, and that the portion of the received data is only part of the data received from the at least one data server. This is incorrect. Column 14, lines 43-58 of Levy et al. merely relates to partial recording. There is no disclosure or suggestion of a supplying terminal comprising at least one controller which is configured to send a portion of the received data to the mobile terminal, and wherein the portion of the received data is only part of the data received from the at least one data server. Thus, even if the teachings of Levy et al. were combined with Birgerson, this still would not disclose or suggest applicant's claimed invention.

Furthermore, column 14, lines 43-58 of Levy et al. is not supported by the disclosure in the provisional patent application. Thus, even if column 14, lines 43-58 of Levy et

al. was considered to disclose a supplying terminal comprising at least one controller which is configured to send a portion of the received data to the mobile terminal, it is not entitled to the earlier filing date of the provisional patent application and, therefore, is not prior art. The examiner has failed to establish a *prima facie* case of obviousness. Claim 34 is patentable and should be allowed.

Claim 35

Claim 35 is dependent upon claim 34 and claims that the controller of the supplying terminal is configured to allow a user of the mobile terminal to determine the portion of the data which is sent to the mobile terminal. The examiner (pointing to column 14, lines 43-58 of Levy et al.) stated that Levy et al. discloses a controller of the supplying terminal which is configured to allow a user of the mobile terminal to determine the portion of the data which is sent to the mobile terminal. This is incorrect. Column 14, lines 43-58 of Levy et al. merely relates to partial recording. There is no disclosure or suggestion of a controller of a supplying terminal configured to allow a user of the mobile terminal to determine the portion of the data which is sent to the mobile terminal. Thus, even if the teachings of Levy et al. were combined with Birgerson, this still would not disclose or suggest applicant's claimed invention.

Furthermore, column 14, lines 43-58 of Levy et al. is not supported by the disclosure in the provisional patent application. Thus, even if column 14, lines 43-58 of Levy et al. was considered to disclose a controller of a supplying terminal configured to allow a user of the mobile terminal to

determine the portion of the data which is sent to the mobile terminal, it is not entitled to the earlier filing date of the provisional patent application and, therefore, is not prior art. The examiner has failed to establish a *prima facie* case of obviousness. Claim 35 is patentable and should be allowed.

Claim 36

Claim 36 claims that the supplying terminal comprises a controller which is configured to allow a person controlling operation of the supplying terminal to determine the electronic data obtained from at least one data server. The examiner (pointing to column 7, lines 29-38 and column 12, lines 11-36 of Levy et al.) stated that Levy et al. discloses a supplying terminal comprises a controller which is configured to allow a person controlling operation of the supplying terminal to determine the electronic data obtained from at least one data server. This is incorrect.

Column 7, lines 29-38 of Levy et al. merely relates to giving users an option to buy or rent a **link** (hyperlink). Column 12, lines 11-36 of Levy et al. merely relates to implementation in the decoding process and a resultant user interface. If combined with Birgerson, this would occur at the mobile station 10 in Birgerson; not the base station 20. These portions of Levy et al. do not disclose or suggest a controller which is configured to allow a person controlling operation of the **supplying terminal** to determine the electronic data obtained from at least one data server. Thus, even if the teachings of Levy et al. were combined with Birgerson, this still would not disclose or suggest applicant's claimed invention.

Furthermore, column 7, lines 29-38 and column 12, lines 11-36 of Levy et al. are not supported by the disclosure in the provisional patent application. Thus, even if column 7, lines 29-38 and column 12, lines 11-36 of Levy et al. were considered to disclose a supplying terminal comprising a controller which is configured to allow a person controlling operation of the supplying terminal to determine the electronic data obtained from at least one data server, it is not entitled to the earlier filing date of the provisional patent application and, therefore, is not prior art. The examiner has failed to establish a *prima facie* case of obviousness. Claim 36 is patentable and should be allowed.

Claim 37

Claim 37 is dependent upon claim 36 and claims that the controller is configured to allow the person controlling operation of the **supplying terminal** to determine a configuration of the electronic data within the supplying terminal. The examiner (pointing to column 6, lines 43-67 of Levy et al.) stated that Levy et al. discloses a controller which is configured to allow the person controlling operation of the supplying terminal to determine a configuration of the electronic data within the supplying terminal. This is incorrect. Column 6, lines 43-67 of Levy et al. merely relates to a link for buying and downloading music. There is no disclosure or suggestion of a controller which is configured to allow the person controlling operation of the supplying terminal to determine a configuration of the electronic data within the supplying terminal in combination with the features of claim 36. Thus, even if the teachings of

Levy et al. were combined with Birgerson, this still would not disclose or suggest applicant's claimed invention.

Furthermore, column 6, lines 43-67 of Levy et al. is not supported by the disclosure in the provisional patent application. Thus, even if column 6, lines 43-67 of Levy et al. was considered to disclose a controller which is configured to allow the person controlling operation of the supplying terminal to determine a configuration of the electronic data within the supplying terminal, it is not entitled to the earlier filing date of the provisional patent application and, therefore, is not prior art. The examiner has failed to establish a *prima facie* case of obviousness. Claim 37 is patentable and should be allowed.

Claim 38

Claim 38 is dependent upon claim 36 and claims that the controller is configured to allow the person controlling supply of the electronic data to mobile terminals to determine the price at which the electronic data is sold. The examiner (pointing to column 6, lines 43-67 of Levy et al.) stated that Levy et al. discloses a controller configured to allow the person controlling supply of the electronic data to mobile terminals to determine the price at which the electronic data is sold. This is incorrect. Column 6, lines 43-67 of Levy et al. merely discloses a link for buying and downloading music. There is no disclosure or suggestion of a controller configured to allow the person controlling supply of the electronic data to mobile terminals to determine the price at which the electronic data is sold in combination with the features of claim 36. Thus, even if the teachings of Levy et

al. were combined with Birgerson, this still would not disclose or suggest applicant's claimed invention.

Furthermore, column 6, lines 43-67 of Levy et al. is not supported by the disclosure in the provisional patent application. Thus, even if column 6, lines 43-67 of Levy et al. was considered to disclose a controller configured to allow the person controlling supply of the electronic data to mobile terminals to determine the price at which the electronic data is sold, it is not entitled to the earlier filing date of the provisional patent application and, therefore, is not prior art. The examiner has failed to establish a prima facie case of obviousness. Claim 38 is patentable and should be allowed.

Claim 40

Claim 40 claims that the supplying terminal comprises a controller configured to allow the data in electronic form to be uploaded to the supplying terminal in an operation that is independent from a request being made for the data in electronic form by the mobile terminal. The examiner (pointing to column 14, lines 35-58 of Levy et al.) stated that Levy et al. discloses a supplying terminal comprising a controller configured to allow the data in electronic form to be uploaded to the supplying terminal in an operation that is independent from a request being made for the data in electronic form by the mobile terminal. This is incorrect. Column 14, lines 35-58 of Levy et al. merely relates to actions which could be performed by the mobile station; not the supplying terminal (base station 20 in Birgerson). Column 14, lines 35-58 of Levy et al. does not disclose or suggest a

supplying terminal comprising a controller configured to allow the data in electronic form to be uploaded to the supplying terminal in an operation that is independent from a request being made for the data in electronic form by the mobile terminal. Thus, even if the teachings of Levy et al. were combined with Birgerson, this still would not disclose or suggest applicant's claimed invention.

Furthermore, column 14, lines 35-58 of Levy et al. is not supported by the disclosure in the provisional patent application. Thus, even if column 14, lines 35-58 of Levy et al. was considered to disclose a controller configured to allow the person controlling supply of the electronic data to mobile terminals to determine the price at which the electronic data is sold, it is not entitled to the earlier filing date of the provisional patent application and, therefore, is not prior art. The examiner has failed to establish a prima facie case of obviousness. Claim 40 is patentable and should be allowed.

Claim 42

Independent claim 42 is a method claim. Claim 42 claims a method for supplying data in electronic form comprising:

receiving over a wireless network data from at least one data server; and

in response to a request from the mobile terminal for at least a part of the data, sending using a wireless connection the at least a part of the data to the mobile terminal, wherein the wireless connection is a Low Power Radio Frequency (LPRF) connection.

As noted above with respect to claim 1, the examiner has admitted that Birgerson fails to disclose a wireless connection which is a Low Power Radio Frequency (LPRF) connection. The examiner then goes on to state that Levy et al. suggests making a connection of Birgerson a wireless communication protocol such as Bluetooth whereby the Bluetooth path is being associated with the "Low Power Radio Frequency (LPRF) connection. The examiner specifically points to column 5, lines 37-66 of Levy et al. However, column 5, lines 37-66 of Levy et al. is not supported in the provisional patent application. The first time this disclosure appears is when Levy et al. was filed on May 2, 2000. This was after applicant's priority date of September 16, 1999. Thus, this disclosure in Levy et al. is not prior art. The examiner has not established a *prima facie* case of obviousness. Claim 42 is patentable over the cited art.

VIII. Claims Appendix

Attached.

IX. Evidence Appendix

None.

X. Related Proceedings Appendix

None.

Conclusion

In view of the arguments presented above, it is respectfully requested that the Examiner's rejections of Claims 1, 2, 6-8, 11, 12, 14-16, 20-23 and 25-45 be reversed.

Respectfully submitted,

Mark F. Harrington

Mark F. Harrington (Reg. No. 31,686)

4/14/08

Date

Customer No.: 29683
Harrington & Smith, PC
4 Research Drive
Shelton, CT 06484-6212
203-925-9400

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Ann Okrentowich
Name of Person Making Deposit

VIII. CLAIMS APPENDIX

1. A system for supplying data in electronic form comprising a mobile terminal and a supplying terminal, the supplying terminal comprising a first communication transceiver configured to receive data from at least one data server and second communications transceiver configured to send at least part of the data to the mobile terminal over a wireless connection, wherein the first communication receiver is configured to obtain electronic data from the at least one data server by communication over a wireless network, and wherein the wireless connection is a Low Power Radio Frequency (LPRF) connection.
2. The system according to claim 1 in which there is a plurality of data servers to supply electronic data to the supplying terminal.
- 3.-5. (Canceled)
6. The system according to claim 1 in which the supplying terminal is a vending machine which supplies electronic data in exchange for a monetary payment.
7. The system according to claim 6 in which the supplying terminal and mobile terminal exchange information necessary to enable payment to be made for the electronic data supplied to the mobile terminal.
8. The system according to claim 1 in which the mobile terminal and the supplying terminal communicate by the Wireless Application Protocol (WAP).

9.-10. (Canceled)

11. The system according to claim 1 in which the wireless network is provided by a cellular network.

12. The system according to claim 1 in which the wireless connection is a connection between the mobile station and the supplying terminal in a pico-cell.

13. (Canceled)

14. The system according to claim 1 in which wireless network obtains the data from a second network which is a wired network.

15. The system according to claim 1 in which the wireless network obtains the data from the Internet via a gateway.

16. The system according to claim 1 in which the data transmitted to the mobile terminal from the supplying terminal is only part of the data transmitted to the supplying terminal by the or each data server.

17.-19. (Canceled)

20. The system according to claim 6 in which the price at which the electronic data is sold is determined by a person controlling supply of that electronic data to mobile terminals.

21. The system according to claim 1 in which the mobile terminal is a mobile telephone.

22. The system according to claim 1 in which the mobile terminal is selected from a group consisting of game playing

devices, portable audio players, portable video players, personal digital assistants and smart telephones.

23. The system according to claim 1 in which the data in electronic form is uploaded to the supplying terminal in an operation that is independent from a request being made for the data in electronic form by the mobile terminal.

24. (Canceled)

25. A supplying terminal for supplying data in electronic form comprising first communication means for receiving data from at least one data server over a wireless network and second communications means for sending at least part of the data to a mobile terminal over a wireless connection, wherein the first communication means is wireless communications means for receiving data from at least one data server over a wireless network, and wherein the wireless connection is a Low Power Radio Frequency (LPRF) connection.

26. A supplying terminal for supplying data in electronic form comprising a first communication transceiver configured to receive data from at least one data server over a wireless network and second communications transceiver configured to send at least part of the data to a mobile terminal over a wireless connection, wherein the wireless connection is a Low Power Radio Frequency (LPRF) connection.

27. The supplying terminal according to claim 26 further comprising at least one controller configured to cause the supplying terminal to act as a proxy between the mobile terminal and the at least one data server.

28. The supplying terminal according to claim 26 further comprising at least one controller configured to cause the transfer of data between the at least one data server and the supplying terminal to be carried out securely.
29. The supplying terminal according to claim 26 further comprising at least one controller configured to cause the transfer of data between the supplying terminal and the mobile terminal to be carried out securely.
30. The supplying terminal according to claim 26 further comprising at least one controller configured to send the at least part of the data in response to confirmation of a monetary payment being made corresponding to the at least part of the data.
31. The supplying terminal according to claim 30 in which the at least one controller is configured to exchange information with the mobile terminal necessary to enable the monetary payment to be made.
32. The supplying terminal according to claim 26 further comprising at least one controller configured to cause the mobile terminal and the supplying terminal to communicate using the Wireless Application Protocol (WAP).
33. The supplying terminal according to claim 26 in which the first communications transceiver is configured to receive data over a cellular wireless network.
34. The supplying terminal according to claim 26 further comprising at least one controller and wherein the at least one controller is configured to send a portion of the received

data to the mobile terminal, and wherein the portion of the received data is only part of the data received from the at least one data server.

35. The supplying terminal according to claim 34 in which the at least one controller is configured to allow a user of the mobile terminal to determine the portion of the data which is sent to the mobile terminal.

36. The supplying terminal according to claim 26 further comprising at least one controller, and in which at least one controller is configured to allow a person controlling operation of the supplying terminal to determine the electronic data obtained from at least one data server.

37. The supplying terminal according to claim 36 in which the at least one controller is configured to allow the person controlling operation of the supplying terminal to determine a configuration of the electronic data within the supplying terminal.

38. The supplying terminal according to claim 36 in which the at least one controller is configured to allow the person controlling supply of the electronic data to mobile terminals to determine the price at which the electronic data is sold.

39. The supplying terminal according to claim 26 in which the mobile terminal is one of a mobile telephone, game playing device, portable audio player, portable video player, personal digital assistant, and a telephones.

40. The supplying terminal according to claim 26 further comprising at least one controller and wherein the at least

one controller is configured to allow the data in electronic form to be uploaded to the supplying terminal in an operation that is independent from a request being made for the data in electronic form by the mobile terminal.

41. The supplying terminal according to claim 26 further comprising at least one controller configured to send, using the wireless connection, information to the mobile terminal about content offered for sale by the supplying terminal, the content comprising at least one item, the at least one controller further configured to send the at least part of the data in response to a request from the mobile terminal for purchase of a selected one or more of the at least one items.

42. A method for supplying data in electronic form comprising:

receiving over a wireless network data from at least one data server; and

in response to a request from the mobile terminal for at least a part of the data, sending using a wireless connection the at least a part of the data to the mobile terminal, wherein the wireless connection is a Low Power Radio Frequency (LPRF) connection.

43. The method of claim 42, wherein:

the data comprises at least one item;

the method includes storing the data as part of content provided for sale;

the method includes providing using the wireless connection information to a mobile terminal about the content offered; and

sending further comprises in response to a request from the mobile terminal for purchase of a selected one or more items in the content, sending the selected one or more items to the mobile terminal.

44. The method of claim 43, wherein sending the selected one or more items to the mobile terminal is performed in exchange for a monetary payment.

45. The method of claim 44, further comprising exchanging, using at least the wireless connection, information with the mobile terminal necessary to enable the monetary payment to be made.

IX. EVIDENCE APPENDIX

None

S.N. 10/088,061

X. RELATED PROCEEDINGS APPENDIX

None